

Notice of Allowability

Application No.

10/071,510

Examiner

Stephen L. Rawlings, Ph.D.

Applicant(s)

CLARK ET AL.

Art Unit

1643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 28 June 2007.
2. ☒ The allowed claim(s) is/are 1, 7, 8, and 14.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☒ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☒ Interview Summary (PTO-413), Paper No./Mail Date 20070911
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

/Stephen L. Rawlings/
Stephen L. Rawlings, Ph.D.
Primary Examiner, Art Unit 1643

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.
2. Authorization for this examiner's amendment was given in a telephone interview with Maria Laccotripe Zacharakis, Ph.D., J.D., on September 13, 2007.
3. The application has been amended as follows:

In the claims:

The following set of claims has replace the set of claims submitted as part of the amendment filed June 28, 2007:

Claim 1. (Currently Amended) A method for determining whether paclitaxel and cisplatin can be used to reduce the growth of an ovarian tumor, comprising the steps of: a) obtaining a sample of ovarian tumor cells; b) determining whether the ovarian tumor cells express the sensitivity marker jlhbab412e01; and c) identifying that paclitaxel and cisplatin can be used to reduce the growth of the ovarian tumor cells when the sensitivity marker jlhbab412e01 is expressed by the ovarian tumor cells, wherein expression is determined by detecting the amount of an mRNA molecule comprising the corresponding RNA sequence of the polynucleotide sequence of SEQ ID NO: 16 present in the sample.

Claims 2-6. (Cancelled)

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Claim 7. (Previously Presented) The method of claim 1, wherein said ovarian tumor cells are obtained from an ovarian tumor cell line or an ovarian tumor obtained from a subject.

Claim 8. (Currently Amended) A method for determining whether paclitaxel and cisplatin cannot be used to reduce the growth of an ovarian tumor, comprising the steps of: a) obtaining a sample of ovarian tumor cells; b) determining whether the ovarian tumor cells express the sensitivity marker jlhbab412e01; and c) identifying that paclitaxel and cisplatin cannot be used to reduce the growth of the ovarian tumor when the sensitivity marker jlhbab412e01 is not expressed by the ovarian tumor cells, wherein expression is determined by detecting the amount of an mRNA molecule comprising the corresponding RNA sequence of the polynucleotide sequence of SEQ ID NO: 16 present in the sample.

Claims 9-13. (Cancelled)

Claim 14. (Previously Presented) The method of claim 8, wherein said ovarian tumor cells are obtained from an ovarian tumor cell line or an ovarian tumor obtained from a subject.

Claims 15-71. (Cancelled)

Oath/Declaration

4. As noted in the Office action mailed June 1, 2006, the substitute oath or declaration is defective. A new oath or declaration in compliance with 37 C.F.R. § 1.67(a) identifying this application by application number and filing date is required. See M.P.E.P. §§ 602.01 and 602.02.

The substitute oath or declaration is defective because: Non-initialed and/or non-dated alterations have been made to the oath or declaration. See 37 C.F.R. § 1.52(c).

At page 9 of the amendment filed June 28, 2007, Applicant has remarked that they are in the process of contacting Edwin Clark to obtain a new oath/declaration in compliance with 37 C.F.R. § 1.67(a), so as to obviate this issue.

Conclusion

5. Claims 1, 7, 8, and 14 have been allowed.

6. Claims 1, 7, 8, and 14 have been renumbered as claims 1-4, respectively.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen L. Rawlings, Ph.D. whose telephone number is (571) 272-0836. The examiner can normally be reached on Monday-Friday, 8:30AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Larry Helms, Ph.D. can be reached on (571) 272-0832. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Stephen L. Rawlings/
Stephen L. Rawlings, Ph.D.
Primary Examiner
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slr
September 13, 2007